
Civil Rights & Judiciary Committee

HB 1359

Brief Description: Reviewing laws related to criminal insanity and competency to stand trial.

Sponsors: Representatives Thai, Abbarno, Eslick, Goodman and Davis.

Brief Summary of Bill

- Establishes a task force to review laws related to criminal insanity and competency to stand trial, and to recommend specific law changes.
- Recodifies sections of law relating to forensic mental health under topical subject headings.

Hearing Date: 2/5/25

Staff: Eric Lopez (786-7290) and Edie Adams (786-7180).

Background:

Forensic Mental Health Laws.

The forensic mental health system addresses the evaluation and treatment of individuals with mental health issues who are involved in the criminal justice system. Forensic mental health laws address procedures and requirements relating to criminal insanity and competency to stand trial and are codified in chapter 10.77 RCW. The Department of Social and Health Services (DSHS) provides state-funded forensic mental health services throughout Washington related to the legal concepts of criminal insanity and competency to stand trial.

Criminal Insanity.

Criminal insanity arises when a criminal defendant requests a judge or jury to find them not guilty by reason of insanity (NGRI). This refers to the defendant's mental state at the time of the alleged crime. A person is NGRI of a criminal offense if, at the time of the act and as a result of

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a mental disease or defect, the person was unable to perceive the nature and quality of the act or unable to tell right from wrong with reference to the act.

A defendant who is found NGRI may be committed to a state hospital if a judge or jury finds that the defendant presents a substantial danger to other persons or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, and there is no less restrictive treatment than detention in a state hospital. The term of commitment may not exceed the maximum sentence for the offense for which the defendant was acquitted by reason of insanity.

Competency to Stand Trial.

A defendant has a constitutional right to not be tried for a crime if the defendant is incompetent to stand trial. Competency refers to the defendant's current mental state. A person is incompetent to stand trial in a criminal case if the person lacks the capacity to understand the nature of the proceedings or is unable to assist in their own defense. A person who is incompetent may not be tried, convicted, or sentenced for a criminal offense as long as the incompetency continues. When the issue of competency is raised by any party or the court, the court must stay the proceedings for a competency evaluation provided by DSHS or an appointed expert. After the evaluation, if the court finds that the defendant is incompetent to stand trial, the case must remain stayed and the court may order the defendant to undergo competency restoration treatment for the purpose of rendering the defendant amenable to trial.

Summary of Bill:

Creation of Task Force.

A task force is created to review laws related to criminal insanity and competency to stand trial. The task force must include:

- one member from each of the two largest caucuses of the House and Senate;
- the Secretary of the Department of Social and Health Services or the Secretary's designee;
- the Secretary of the Department of Corrections or the Secretary's designee;
- the Director of the Health Care authority or the Director's designee;
- the Washington State Attorney General or the Attorney General's designee;
- the Director of the Washington State Office of Public Defense or the Director's designee;
- and
- 16 members appointed by the Department of Social and Health Services with input from various agencies representing courts, prosecutors and defense attorneys, law enforcement, victims and persons with lived experience, local governments, and other stakeholders.

Duties of Task Force.

The task force must:

- conduct a comprehensive review of existing law to identify barriers to fairness, efficiency, and public safety;
- consider language updates to improve clarity, reduce stigma, and improve coherence between legal and medical terminology; and
- make recommendations to remove barriers to diversion programs, treatment options, and

services that would facilitate safe hospital discharges.

Staff support for the task force must be provided by the Department of Social and Health Services. The task force may form subcommittees, and contract with additional persons with specific technical expertise if an appropriation is provided. The task force must report its findings to the Governor and appropriate committees of the Legislature by December 1, 2026.

Recodification and Decodification of Laws Relating to Criminal Insanity and Competency to Stand Trial.

The code reviser is instructed to recodify sections within chapter 10.77 RCW to reorder and sort them under the following subheadings:

- General;
- Authorized Leave and Furloughs;
- Community Notifications;
- Evaluations Under this Chapter;
- Criminal Insanity; and
- Competency to Stand Trial.

Five sections of chapter 10.77 RCW without continuing effect are decodified.

Appropriation: None.

Fiscal Note: Requested on January 31, 2025.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.